IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.7524 OF 2003

Mrs.Shameem Yacoob Rahee, since deceased, through her heirs and legal representatives:

1. Yacoob Rahee S/o. Mohamed Ishak

& Ors. : Petitioners

(Orig.Appellant 5)

V/s.

President, Anjuman-E-Tanzimul Muslameen & Ors. : Respondents

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Mr.H.A.Solkar for the petitioners.

Mr.Shaikh Nasir Masin for respondent no.1.

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CORAM : S.A. BOBDE, J.
January 17, 2005.

P.C.:

1. Rule, returnable forthwith.

Mr.Shaikh waives service of rule on behalf of respondent no.1.

Heard by consent.

2. The only grievance of the petitioners is that the dues of voluntary retirement of the deceased Mrs.Shameem Yacoob Rahee have not been disbursed to them in spite of the fact that the voluntary retirement application of the deceased has been accepted and treated as such. The aforesaid deceased Mrs.Shameem Yacoob Rahee tendered an application for voluntary retirement on 1.2.1992 and it was accepted by the management from 1.4.1992. She unsuccessfully challenged the acceptance of the application for voluntary retirement. The School Tribunal turned down this plea and held that the voluntary retirement application was submitted by the deceased on her own accord.

3. Having heard the learned counsel for the parties, I am of view that assuming that an application for voluntary retirement was submitted by the deceased on her own accord, the benefits which flow from such voluntary retirement cannot be negated. The petitioners are said to be the legal heirs of the deceased and, as such, would be entitled to receive the benefits arising out of the acceptance of the voluntary retirement.

4. In the circumstances, the petition is allowed with the direction that the petitioners shall submit their application for dues flowing from the voluntary retirement

of the deceased Mrs.Shameem Yacoob Rahee. Respondent no.3 Education Inspector shall decide the petitioners' application within a period of four weeks from the date of receipt of the application, after hearing the petitioners. The petitioners shall submit the application within two weeks from today.

5. The rule is made absolute in the aforesaid terms.

Sd/-

S.A. BOBDE, J.